



U.S. Department of Justice

*United States Attorney's Office
Eastern District of New York*

*271 Cadman Plaza East
Brooklyn, New York 11201*

February 19, 2015

VIA ECF

Honorable Steven I. Locke
United States Magistrate Judge
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: United States of America v. Town of Oyster Bay et ano.
Civil Action No. CV-14-2317 (ADS/SIL)

Dear Magistrate Judge Locke:

Pursuant to the Court's Initial Conference Order dated December 10, 2014 and Judge Spatt's subsequent scheduling order dated January 9, 2015, this letter is respectfully submitted on behalf of the plaintiff United States and defendants, the Town of Oyster Bay and John Venditto, in his Official Capacity, to provide the Court with the parties' joint proposed discovery plan. The parties have met and conferred pursuant to Fed. R. Civ. Proc. 26(f) and have agreed to the following, except as noted:

1. Provision of Automatic Disclosure pursuant to Fed. R. Civ. Proc. 26(a):

The parties exchanged automatic disclosure on February 12, 2015.

2. Subjects on which discovery may be needed (Fed. R. Civ. Proc. 26(f)(3)(A) :

United States: The United States will likely require discovery regarding, among other things, how and why the Town established the two programs at issue, which provide incentives for developers to build affordable housing units for senior citizens and for "first time homebuyers," the reasons that it incorporated preferences for Town residents into the programs, the effects of those preferences, what consideration was given to whether those preferences were potentially discriminatory, and details concerning the establishment and administration of the two housing programs, and current and past occupancy of the units built under the two programs.

Defendants: Defendants will likely require discovery regarding the government's investigation of the two programs at issue, the administration of the Next Generation program by former co-defendant Long Island Housing Partnership, the demographic

composition of the Town and surrounding areas, the existence of residency preferences in connection with housing programs in other municipalities, and expert opinions concerning these subjects.

3. Issues regarding disclosure or discovery of electronically stored information (Fed. R. Civ. Proc. 26(f)(3)(C)):

The parties are not aware at this time of any issues regarding discovery of electronically stored information.

4. Issues regarding claims of privilege or of protection of documents as trial-preparation materials (Fed. R. Civ. Proc. 26(f)(3)(D)):

The United States will be seeking files and deposition testimony of the attorneys with whom the Town consulted prior to enactment of the Next Generation housing program. Defendants have indicated that they intend to assert appropriate legal privileges over the files and testimony of attorneys who provided legal advice to the Town.

5. Changes in limitations on discovery (Fed. R. Civ. Proc. 26(f)(3)(E)):

Plaintiff has indicated that it requires approximately 20 depositions, because the case involves two governmental programs and numerous governmental officials and consultants to the Town, among others, were involved in the creation, enactment and administration of the programs.

Defendants have indicated that they oppose any change in the presumptive limitation of 10 depositions per party set forth in Fed. R. Civ. Proc. 30(a)(2).

6. The parties propose the following discovery schedule:

a. Service of and response to written discovery:

Written discovery served	March 16, 2015
Responses to written discovery	April 17, 2015

b. Completion of Fact Witness Depositions December 15, 2015

c. Motions to amend pleadings, join parties January 15, 2016

d. Expert reports to be exchanged January 30, 2016

e. Expert depositions to be completed March 1, 2016

f. Completion of discovery April 1, 2016

g. Filing of dispositive motions May 1, 2016

h. Pretrial order date

July 1, 2016

7. Potential for Settlement:

The parties have engaged in substantial settlement discussions, but have not been able to reach a resolution.

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cc: Attorneys for Defendants (via ECF)